UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/711,290	09/08/2004	Ashish Gupta	03292.102070.	5289

66569   7590   05/12/2009
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EXAMINER
EBERSMAN, BRUCE I

ART UNIT	PAPER NUMBER
3691	

MAIL DATE	DELIVERY MODE
05/12/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>29 January 2009</u>.
2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-25</u> is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) <u>1-25</u> is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All   b)☐ Some * c)☐ None of:
      1.☐ Certified copies of the priority documents have been received.
      2.☐ Certified copies of the priority documents have been received in Application No. _____.
      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

DETAILED ACTION

1.   A request for continued examination under 37 CFR 1.114, including the fee set

forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this

application is eligible for continued examination under 37 CFR 1.114, and the fee set

forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action

has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/29

has been entered.

Claims 1-25 presented for examination. On 1/29/09, applicant filed an amendment,

amending claims 1,9 and 22-25. After careful consideration of the applicants arguments

and amendments, the examiner finds them to be moot in view of new grounds of

rejection as a result of applicant's amendments to the independent claims.

Claim Rejections - 35 USC § 101

1.   35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of
> matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the
> conditions and requirements of this title.

Claims 1-8,22-25 are rejected under 35 U.S.C. 101 because the claimed invention is

directed to non-statutory subject matter. Independent claim 1, recites an apparatus with

processor and memory executable by said processor with computer code. However, the

claim continues on to claim the "method comprising" The claims do not clearly

distinguish themselves as methods which would require the use of hardware within the

body of the claims or, apparatus claims which are based on hardware. The applicant is

requested to claim either a computer implemented method or computer based

apparatus.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2.   Claims 1,3,5-14,16-19 rejected under 35 U.S.C. 103(a) as being unpatentable

over Weichert in view of US Patent Application Publication to Topping 20040151353

and US Patent Publication 20050021400 to Postrel.

As per claim 1, Weichert discloses;

establishing a first transaction account and a second transaction account, wherein said

first and second transaction accounts are associated with first and second transaction

account identifiers, respectively; (0029)

associating said first and second transaction account identifiers with a common account

identifier; (0004, 0032, and 0106)

receiving, at a transaction processing system, said common account identifier; (0029-

0032) recognizing said common account identifier as being associated with more than

one account; (0029-032)

determining, based on selection criteria, at least one of said first and second transaction

accounts to access for processing a_ transaction, resulting in a selected transaction

account; (0029-32)

accessing said selected transaction account based on said determining step; and

(0029-32)

processing the transaction via said selected transaction account. (0032)

biometric identification and pin numbers for multiple account access. (0072)

Weichert does not explicitly disclose;

wherein said selection criteria include at least one of a plurality of biometric input

identifiers respectively corresponding to said first and second transaction accounts, and

a plurality of personal identification numbers respectively corresponding to said first and

second transaction accounts, wherein said selection criteria further include said first

transaction account being selected by default based on a type of merchant associated

with said transaction:

(in summary, Weichert does not explicitly disclose direct association of one biometric

with one account and a second with a second account in parallel with 2 pin numbers,

Topping is being introduced to disclose the multiple biometric functionality.)

Topping teaches; the concept of linking biometric indicators to specific functions on a

computer, one for internet, one for system access (0032) and further an example where

each TV channel could be allocated to a different fingerprint (biometric). (0034)

It would therefore have been obvious to one of ordinary skill in the art at the time of the

invention to combine the disclosures of Weichert with the biometric teachings of

Topping for the motivation of adapting fingerprinting technology (0004) to security.

Weichert and Topping do not explicitly disclose;

wherein said selection criteria further include said first transaction account being

selected by default based on a type of merchant associated with said transaction:

Postrel teaches;

wherein said selection criteria further include said first transaction account being

selected by default based on a type of merchant associated with said transaction:

(0032)

It would therefore have been obvious to one of ordinary skill in the art at the time of the

invention to combine the payment management system of Weichert with the multi-

function card system of Postrel where default accounts can be defined such that a

particular account can be used at a particular merchant by default for the motivation of

maximizing the advantages of particular accounts. (0002)

As per claim 3, Weichert discloses; the step of replacing said common account identifier

with one of said first and second transaction account identifier associated with said

selected transaction account during at least one of the accessing and processing steps.

(0032, Weichert allows the use of either a common account number or can work with

the account number of one account)

As per claim 5,Weichert discloses said common account identifier

is identical to at least one of said first and second transaction account identifiers. (0071)

(various methods are disclosed, including where a user card could also be the id

mechanism which triggers the ability to select other accounts).

As per claim 6, Weichert discloses a user associating a common account identifier with

said first and second transaction accounts. (032, 036-7, user can configure accounts as

desired)

As per claim 7, Weichert discloses; selection criteria may be modified by a user of said

first and second transaction accounts. (029-32, various methods of selection are

disclosed)

As per claim 8, Weichert discloses; a settlement process comprising the steps of:

processing a request for payment to said merchant when said merchant submits a

settlement record (067)associated with said common account identifier; (032)

recording transactions processed as settlement records in a settlement table; and

paying said merchant. (067)

As per claim 9, Weichert discloses;

Establish a first transaction account associated with a first transaction account identifier;

(0030)

Establish a second transaction account associated with a second transaction account

identifier, wherein said first (0030) and second transaction accounts are associated

with a common account identifier; and (0030)

determine, based on selection criteria in substantially real time, which one of said first

and (0030)

said second transaction accounts to access during a financial transaction(0030)

Weichert does not explicitly disclose;

wherein said selection criteria include at least one of a plurality of biometric identifiers

respectively corresponding to said first and second transaction accounts, wherein said

selection criteria further includes said first transaction account being selected by default

based on a type of merchant associated with said transaction, and a plurality of

personal identification numbers respectively corresponding to said first and second

transaction accounts.

Topping teaches;

wherein said selection criteria include at least one of a plurality of biometric identifiers

respectively corresponding to said first and second transaction accounts, and a plurality

of personal identification numbers respectively corresponding to said first and second

transaction accounts. (0032, 0034)

It would therefore have been obvious to one of ordinary skill in the art at the time of the

invention to combine the disclosures of Weichert with the biometric teachings of

Topping for the motivation of adapting fingerprinting technology (0004) to security.

Weichert and Topping do not explicitly disclose;

wherein said selection criteria further include said first transaction account being

selected by default based on a type of merchant associated with said transaction:

Postrel teaches;

wherein said selection criteria further include said first transaction account being

selected by default based on a type of merchant associated with said transaction:

(0032)

It would therefore have been obvious to one of ordinary skill in the art at the time of the

invention to combine the payment management system of Weichert with the multi-

function card system of Postrel where default accounts can be defined such that a

particular account can be used at a particular merchant by default for the motivation of

maximizing the advantages of particular accounts. (0002)

As per claim 10, Weichert discloses; first and second transaction accounts each

includes at least one of a credit account, debit account, loyalty account, phone card

account and a stored value account. (041, credit and debit, claim 9 stored value)

As per Claim 11, Weichert discloses; said first and second transaction accounts each includes at least one of a credit account, debit account, loyalty account, phone card account and a stored value account, and wherein one of said first and second transaction accounts is represented by a physical instrument having associated therewith indicia representing said common account identifier. (0041,0071)

As per claim 12, Weichert discloses; wherein the common account identifier is the first transaction account identifier. (032, enabler stores a number of payment accounts, including the payment account)

As per claim 13, Weichert discloses; the common account identifier is the first transaction account identifier, and wherein said first transaction account includes a credit account. (0032, 0041, credit debit)

As per claim 14, Weichert discloses; at least one of said first transaction account identifier, said second transaction account identifier and said common account identifier is associated with a transaction card. (transaction card (032)

As per claim 16, Weichert discloses; said selection criteria include at least one of transaction specific input based criteria and default criteria. (029-32), default – (029), specific, (030-31)

As per claim 17, Weichert discloses; selection criteria <u>include</u> at least one of

transaction specific input based criteria and default criteria, (030-criteria)

and wherein said transaction specific input based criteria <u>include</u> at least one, of

prompts at an ATM, and prompts at a <u>point of sale terminal</u> (pos). (032, POS, prompts)

As per claim 18, Weichert discloses; selection criteria comprise at least one of

transaction specific input based criteria and default criteria, and wherein said default

criteria comprise at least one of owner selected rules and card provider rules. (0110,

user rules,0108-defualt criteria, determine if balance is sufficient)

As per claim 19, Weichert discloses; [Claim 1 9] The system of claim 9, wherein said

selection criteria <u>include</u> at least one of transaction specific input based criteria and

default criteria, and wherein said default criteria <u>include</u> at least one of minimum fund

amount rules, maximum fund amount rules, type of transaction rules, and type of

merchant rules. (minimum balance rules 0107)

3.   Claims 2, 4,15,20-25 rejected under 35 U.S.C. 103(a) as being unpatentable

over Weichert in view of Topping, and US Patent Publication 20050021400 to Postrel

and further in view of US Patent Application Publication to Blagg, 2004/0049452

As per claim 2; Weichert discloses; comprising the step of sending one bill to an account holder associated with said common account identifier, (0058 Weichert, billing) Weichert (058), Topping and Postrel, do not explicitly disclose consolidated billing. Blagg teaches wherein said bill reporting information relates to both of said first and second transaction accounts. (0068) in a multiple credit line presentation instrument. It would therefore have been obvious to one of ordinary skill in the art at the time of the invention to combine the billing disclosures of Weichert with the consolidated billing of Blagg for the motivation of simplifying the life of a user while facilitating the use of multiple accounts with the same card. (0004)

As per claim 4, Weichert discloses;

recognizing said common account identifier as being associated with more than one account; (0030-2)

determining, based on said selection criteria, at least one of said first and second transaction accounts to access for processing said transaction, resulting in a selected transaction account;(0030-1)

accessing said selected transaction account system based on said determining step(0030-1);

Weichert, Topping and Postrel do not explicitly disclose;

receiving a reconciliation file including said common account identifier and processing the reconciliation file via a system associated with said selected transaction account.

Blagg teaches capability to settle accounts as a group or separately (0073) and

consolidated billing (068) which would include; receiving a reconciliation file including

said common account identifier; processing the reconciliation file via a system

associated with said selected transaction account. (0073) It would therefore have been

obvious ton one of ordinary skill in the art at the time of the invention to combine the

multiple account disclosures of Weichert with the separate or combined settlement of

consolidated accounts of Blagg for the motivation of allowing account holders to enjoy

the convenience of multiple accounts with one card or device. (0004)

As per claim 15, Weichert discloses;

first transaction account includes a credit account (0030-2), could be either debit or

credit) and said second transaction account includes a stored value account, (0030-2)

(could be either) and wherein one of said first and second transaction accounts is

represented by a physical instrument (0106) having associated therewith indicia

representing said common account identifier,

Weichert, Topping and Postrel do not explicitly disclose a first accounting being a credit

card and the second account being shared value.

Blagg teaches a variety of combinations (0037)for the purpose of meeting customer

needs. It would therefore have been obvious to one of ordinary skill in the art at the time

of the invention to combine the multi account disclosures of Weichert with the account

choice teachings of Blagg for the motivation of

 user convenience, (0004)

As per claim 20, Weichert discloses; criteria comprise at least one of transaction

specific input based criteria and default criteria, and Weichert (059, variety of different

prioritization schemes) Weichert further discloses accessing a second account if the first

account is inadequate (0029)

Weichert, Topping and Postrel do not explicitly disclose accessing a stored value card

first and credit card second.

Blagg teaches;

a variety of payment methods and default criteria are anticipated (037,52, 55). It would

therefore have been obvious to one of ordinary skill in the art at the time of the invention

to combine the multi account disclosures of Weichert with the multiple criteria of Blagg

for motivation of customer convenience. (0004)

As per claim 21, Weichert, Blagg and Postrel do not explicitly disclose; a single billing

statement is presented showing information about transactions on the credit card

account and the stored value account.

Blagg teaches a single billing statement is presented showing information about

transactions on the credit card account and the stored value account. It would therefore

have been obvious to one of ordinary skill in the art at the time of the invention to

combine the disclosure of Weichert related to multiple accounts with the multiple billing

of Blagg for the motivation of customer convenience. (0004)

As per claim 22, Weichert discloses;

receiving transaction request information from a cardholder via a remote terminal,

wherein said request includes a common transaction account identifier; and

(0004,0030,0106)

processing said common transaction account identifier to determine <u>based on selection</u>

<u>criteria</u> which cardholder transaction accounts are associated therewith, (0030-2)

Weichert does not explicitly disclose;

wherein only one of said card holder transaction accounts <u>includes</u> a credit card

account.

and wherein said selection criteria include at least one of a plurality of biometric input

identifiers respectively corresponding to a first <u>transaction amount</u> and <u>a</u> second

transaction account, and a plurality of personal identification numbers respectively

corresponding to said first and second transaction accounts, <u>wherein said selection</u>

<u>criteria further include said first transaction account being selected by default based on</u>

<u>a type of merchant associated with said transaction.</u>

Toppings teaches;

and wherein said selection criteria include at least one of a plurality of biometric input

identifiers respectively corresponding to said first and second transaction accounts, and

a plurality of personal identification numbers respectively corresponding to said first and

second transaction accounts. (0032,34)

It would therefore have been obvious to one of ordinary skill in the art at the time of the

invention to combine the disclosures of Weichert with the biometric teachings of

Topping for the motivation of adapting fingerprinting technology (0004) to security.

Weichert and Topping do not explicitly disclose;

wherein only one of said card holder transaction accounts includes a credit card

account. wherein said selection criteria further include said first transaction account

being selected by default based on a type of merchant associated with said transaction.

Postrel teaches;

wherein said selection criteria further include said first transaction account being

selected by default based on a type of merchant associated with said transaction.(032)

It would therefore have been obvious to one of ordinary skill in the art at the time of the

invention to combine the payment management system of Weichert with the multi-

function card system of Postrel where default accounts can be defined such that a

particular account can be used at a particular merchant by default for the motivation of

maximizing the advantages of particular accounts. (0002)

Weichert, Topping, and Postrel do not explicitly disclose;

wherein only one of said card holder transaction accounts includes a credit card

account. Blagg teaches a variety of combinations of cards which would include the

combination where (0037) wherein only one of said card holder transaction accounts

comprise a credit card account. It would therefore have been obvious to one of ordinary

skill in the art at the time of the invention to combine the multiple account linkage

disclosures of Weichert with the variety of accounts of Blagg to create a linked account

where only one credit card was used for the motivation of convenience to the customer

who might require only a specific set of choices such as 1 credit card and other

cards(0004)

As per claim 23, Weichert discloses; 23] The process of claim 22, wherein another of

said card holder transaction accounts <u>includes</u> a stored value account. (039-041)

As per claim 24, Weichert discloses;, wherein at least one of said cardholder transaction

accounts is an external transaction account. (032 and 044, no limitations on types of

accounts is disclosed)

As per claim 25, Weichert discloses; The process of claim 22, wherein said remote

terminal is a card reader. (0049)

Response to Arguments

Claims 1-25 presented for examination. On 1/29/09, applicant filed an amendment, amending claims 1,9 and 22-25. After careful consideration of the applicants arguments and amendments with respect to claims 1,9,22 are moot in view of new grounds of rejection as a result of applicant's amendments to the independent claims.

In regards to the applicant's Arguments;

35 USC 101 – The examiner withdraws the grounds of rejection relative to claims 9-21. However, in view of applicant's amendments to independent claims 1, 22, the examiner introduces grounds of rejection under 35 USC 101 as, the claims are now not clearly method or apparatus as drafted.

35 USC 103 (A) – The examiner adds Postrel in view of the applicant's amendment which claims a default account associated with a merchant. The examiner notes that Blagg does have some default capability as well.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRUCE I. EBERSMAN whose telephone number is (571)270-3442. The examiner can normally be reached on 630am-5pm, Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Alexander Kalinowski/   Bruce I Ebersman
Supervisory Patent Examiner, Art Unit 3691   Examiner
                                                    Art Unit 3691

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